



ARIZONA HOUSE OF REPRESENTATIVES

HB 2465: empowerment scholarship accounts; revisions.

PRIME SPONSOR: Representative Livingston, LD 22

BILL STATUS: [Caucus and COW](#)

ED: DP 6-5-0-0

Legend:

ADE – Arizona Department of Education
ESA – Empowerment Scholarship Account
GED – General Equivalency Diploma
STO – School Tuition Organization
Amendments – **BOLD** and ~~Stricken~~ (Committee)

Abstract

Relating to ESA administration.

Provisions

ESA Eligibility

1. Makes the following changes to ESA eligibility:
 - a. Determines children to be eligible to enroll in Kindergarten if the child is under seven years.
 - b. Removes the eligibility requirement for children with disabilities who received monies from an STO or a scholarship for students with disabilities to have attended a public school as a full-time student for at least 90 days or a full semester.
 - c. Removes a definition of legally blind.
 - d. Stipulates that the failing school district eligibility qualification applies to students residing within the boundaries of a D or F school district.
 - e. Requires students to have attended a public school for at least 100 days in the prior Fiscal Year rather than the first 100 days. (Sec. 1)
2. Permits students who have qualified for an ESA to remain eligible to apply for renewal until the student graduates high school, obtains a GED or reaches 22 years of age, rather than until the student finishes high school. (Sec. 2)
 - a. Applies retroactive to January 1, 2015. (Sec. 6)
3. Permits ADE to request confirmation of a qualified student's progress towards graduation or completion of a GED. (Sec. 2)

ESA Participation and Administration

4. Requires ESA parents to sign an agreement to not accept an STO scholarship during the same time the student is actively enrolled in an ESA and permits ADE to ask a qualified school to provide confirmation the student is in compliance. (Sec. 2)
5. Allows ESA monies to be used for contributions to a 529 College Savings Account and caps Coverdell and 529 contributions at \$2,000 annually. (Sec. 2)
6. Allows ESA monies to be spent on costs associated with third-party evaluations for students with disabilities to receive educational therapies. (Sec. 2)
7. Removes the Annual Education Plan process. (Sec. 1, 2)

☐ Prop 105 (45 votes) ☐ Prop 108 (40 votes) ☐ Emergency (40 votes) ☐ Fiscal Note

8. Directs ADE to allow ESA applicants to identify potentially applicable eligibility criteria when applying and prohibits ADE from restricting applicants to identifying a single eligible criteria. (Sec. 2)
9. Requires, rather than permits, the State Treasurer to contract with private financial management firms to manage ESAs and extends the requirement to ADE. (Sec. 3)
10. Modifies parental appeal processes to allow for the appeal of any administrative decision made by ADE, including decisions regarding enrollment eligibility, and requires ADE to notify parents of their ability to appeal when notifying the parent of administrative decisions. (Sec. 3)
11. Instructs ADE to deposit monies into the ESA immediately or, if necessary, retroactively prorate monies when parents agree to ESA terms and conditions and prohibits delaying the deposit of monies until a subsequent quarter. (Sec. 3)
12. Reduces the time for ADE to enroll and issue award letters from 45 to 30 days after receipt of completed applications and required documentation. (Sec. 3)
13. Requires ADE to notify ineligible applicants of statutory deficiencies in the application and the rationale for denial. (Sec. 3)
14. Directs ADE to adopt procedures, rather than rules, for ESA administration and requires policies and procedures to be developed and implemented to the intent of the law and to give students the most education options available. (Sec. 3)
15. Permits ADE to establish policies to establish expense reporting, eligible expenses and application procedures that do not restrict the type or amount of curricular choices. (Sec. 3)

ESA Policy Handbook

16. Instructs ADE to annually develop and publish a policy handbook by July 1. (Sec. 3)
17. Requires the handbook to include information relating to adopted policies and restricts policy administration only to those outlined in the handbook. (Sec. 3)
18. Prohibits ADE from publishing, revising or enforcing new policies and procedures before the completion of:
 - a. A 60-day public comment period in which ADE must consider and reasonably incorporate comments in the handbook.
 - b. The submission of the handbook and revisions to the Governor, President of the Senate and Speaker of the House of Representatives. (Sec. 3)
19. Instructs ADE to post specified ESA information and data on their website that is updated monthly. (Sec. 3)

ESA Administration Contracts

20. Requires ADE to enter into at least one contract with one or more private contractors to assist in the administration of ESAs by December 15, 2017. (Sec. 4)
21. Requires contracts to be for processing applications and making eligibility determinations and financial transactions, including money management, approval of eligible expenses and data reporting. (Sec. 4)
22. Instructs contracts to be used to enhance administration and to ensure additional accountability and transparency. (Sec. 4)

23. Directs ADE to prepare proposed conforming legislation, if necessary, to effectuate contracts for introduction in the Fifty-third Legislature, Second Regular Session. (Sec. 4)

ESA Review Council

24. Establishes the ESA Review Council and outlines membership. (Sec. 5)

25. Instructs members to serve at the pleasure of their appointor and directs the Council to select a chairperson from appointed members. (Sec. 5)

26. Prohibits members from receiving compensation, except that members appointed by the Governor are eligible for reimbursement of expenses. (Sec. 5)

27. Charges the Council with reviewing ESA administration, reviewing and approving administrative contracts and changes to the policy handbook and making recommendations to ADE and the Legislature. (Sec. 5)

28. Directs ADE to provide technical assistance. (Sec. 5)

29. Directs the Council to submit an annual report on its activities to the Governor, President of the Senate, Speaker of the House of Representatives and Secretary of State. (Sec. 5)

30. Repeals the Council on January 1, 2021. (Sec. 5)

Miscellaneous

31. Makes technical and conforming changes. (Sec. 1, 3)

Current Law

[Laws 2011, Chapter 75](#), established the ESA program. An ESA qualified student is defined as an Arizona resident who is any of the following:

1. Identified as having a disability;
2. Attends or is eligible to attend kindergarten at a D or F school or school district;
3. A previous scholarship recipient of the ESA program or the Arizona Scholarships for Pupils with Disabilities Program;
4. A child whose parent or guardian is a member of the armed forces and on active duty or was killed in the line of duty (these students are exempt from any further requirements for qualification);
5. A child who is a ward of the juvenile court;
6. A child who is a sibling of a current or previous ESA recipient;
7. A child who resides within the boundaries of an Indian reservation; or
8. A child of a parent who is legally blind, deaf or hard of hearing.

The qualifying student must also meet at least one of the following requirements:

1. Attended a governmental primary or secondary school as a full-time student for at least 100 days of the prior fiscal year and who transferred under a contract to participate in an ESA;
2. Previously participated in the ESA program;
3. Received a scholarship from a STO and continues to attend a qualified school;
4. Was eligible for an Arizona Scholarship for Pupils with Disabilities; or
5. Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten or preschool children with disabilities program. ([A.R.S. § 15-2401](#))